

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of SUZUKI et al

Application No.: 10/657,248

Filed: September 9, 2003

For: METHOD AND APPARATUS FOR FABRICATING...



Art Unit: 1762

Examiner: A. L. Bashore

Washington, D.C.

Atty.'s Docket: SUZUKI=25A

Confirmation No.: 4043

Date: December 1, 2006

Customer Service Window, **Mail Stop Amendment**

Honorable Commissioner for Patents  
U.S. Patent and Trademark Office  
Randolph Building, 401 Dulany Street  
Alexandria, Virginia 22314

Sir:

Transmitted herewith is a **REPLY TO RESTRICTION REQUIREMENT** in the above-identified application.☐ Small Entity Status: Applicant(s) claim small entity status. See 37 C.F.R. §1.27.☒ No additional fee is required.☐ The fee has been calculated as shown below:

	(Col. 1)		(Col. 2)	(Col. 3)
	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO. PREVIOUSLY PAID FOR	PRESENT EXTRA EQUALS
TOTAL	*	MINUS	** 20	0
INDEP.	*	MINUS	*** 3	0
FIRST PRESENTATION OF MULTIPLE DEP. CLAIM				

ADDITIONAL FEE TOTAL

SMALL ENTITY	
RATE	ADDITIONAL FEE
x 25	\$
x 100	\$
+ 180	\$
ADDITIONAL FEE TOTAL	
	\$

OTHER THAN SMALL ENTITY	
RATE	ADDITIONAL FEE
x 50	\$
x 200	\$
+ 360	\$
TOTAL	
	\$

OR

OR

- \* If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.  
 \*\* If the "Highest Number Previously Paid for" IN THIS SPACE is less than 20, write "20" in this space.  
 \*\*\* If the "Highest Number Previously Paid for" IN THIS SPACE is less than 3, write "3" in this space.

The "Highest Number Previously Paid For" (total or independent) is the highest number found from the equivalent box in Col. 1 of a prior amendment of the number of claims originally filed.

☒ Conditional Petition for Extension of Time

If any extension of time for a response is required, applicant requests that this be considered a petition therefor.

☐ It is hereby petitioned for an extension of time in accordance with 37 CFR 1.136(a). The appropriate fee required by 37 CFR 1.17 is calculated as shown below:

## Small Entity

## Response Filed Within

- ☐ First - \$ 60.00  
☐ Second - \$ 225.00  
☐ Third - \$ 510.00  
☐ Fourth - \$ 795.00

## Month After Time Period Set

## Other Than Small Entity

## Response Filed Within

- ☐ First - \$ 120.00  
☐ Second - \$ 450.00  
☐ Third - \$ 1020.00  
☐ Fourth - \$ 1590.00

## Month After Time Period Set

☐ Less fees (\$ ) already paid for month(s) extension of time on☐ Please charge my Deposit Account No. 02-4035 in the amount of \$☐ Credit Card Payment Form, PTO-2038, is attached, authorizing payment in the amount of \$☐ A check in the amount of \$ is attached (check no. ).

☒ The Commissioner is hereby authorized and requested to charge any additional fees which may be required in connection with this application or credit any overpayment to Deposit Account No. 02-4035. This authorization and request is not limited to payment of all fees associated with this communication, including any Extension of Time fee, not covered by check or specific authorization, but is also intended to include all fees for the presentation of extra claims under 37 CFR §1.16 and all patent processing fees under 37 CFR §1.17 throughout the prosecution of the case. This blanket authorization does not include patent issue fees under 37 CFR §1.18.

BROWDY AND NEIMARK, P.L.L.C.

Attorneys for Applicant(s)

By:

*Sheridan Neimark*  
 Sheridan Neimark  
 Registration No. 20,520

Facsimile: (202) 737-3528  
 Telephone: (202) 628-5197



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:	)	Confirmation No.: 4043
	)	
SUZUKI et al	)	Art Unit: 1762
	)	
Appln. No.: 10/657,248	)	Examiner: A. L. Bashore
	)	
Filing Date: September 9, 2003)	)	December 1, 2006
	)	
For: METHOD AND APPARATUS FOR	)	ATTY.'S DOCKET: SUZUKI=25A
FABRICATING...	)	

**REPLY TO RESTRICTION REQUIREMENT**

Customer Service Window, Mail Stop Amendment  
Honorable Commissioner for Patents  
U.S. Patent and Trademark Office  
Randolph Building, 401 Dulany Street  
Alexandria, Virginia 22314

Sir:

Applicants are in receipt of the Official Action of October 4, 2006, entirely in the nature of a requirement for restriction. Applicants reply below.

First, however, applicants request the PTO to acknowledge receipt of applicants' papers filed under Section 119, certified copies of the priority documents having been filed in the parent application on May 18, 2001.

Restriction has been required among what the PTO deems to be three (3) patentably distinct inventions. As applicants must make an election even though the requirement is traversed, applicants hereby respectfully and provisionally elect Group I, presently claims 2-8 drawn to a process, with traverse and without prejudice.

Appln. No. 10/657,248  
Amd. dated December 1, 2006  
Reply to Office Action of: October 4, 2006

As between Groups I and II, applicants respectfully note that claim 1 recites that apparatus in terms of function, such recited function closely paralleling the steps of claim 2. Under these conditions, the examiner would need to search the apparatus in class 118 in order to provide a complete search for the elected process in class 427, subclass 162. Once such a necessary and complete search has been conducted, it would then not be a "serious burden" to also examine presently non-elected claims 1 and 10, as required by the second paragraph of MPEP 803.

As regards Group III, it contains only claim 9, and claim 9 is a product-by-process claim. Such claims are normally kept with process insofar as restriction practice is concerned. In this regard, the product as claimed is the inherent and inevitable result of the claimed and elected process. Thus, claim 9 should be maintained with the elected process claims.

Withdrawal of the restriction requirement and examination of all the claims on the merits are respectfully requested.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.  
Attorneys for Applicant

By



Sheridan Neimar  
Registration No. 20,520

SN:kg  
Telephone No.: (202) 628-5197  
Facsimile No.: (202) 737-3528  
G:\BN\K\Kanf\Suzuki25A\pto\2006-12-01 RPLY RESTRICT.doc